

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | CRIMINAL ACTION NO. |
| v. |) | 2:18cr409-MHT |
| |) | (WO) |
| CEDRIC WRIGHT |) | |

OPINION AND ORDER

This case is before the court on defendant Cedric Wright's unopposed motion to continue trial. For the reasons set forth below, the court finds that jury selection and trial, now set for March 13, 2019, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a

judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Wright in a speedy trial. Upon Wright's motion to reopen his suppression hearing, the United States Magistrate Judge has set an evidentiary hearing on the matter for February 19.

Given the ongoing suppression issue, and because the parties will need additional time to respond to the magistrate judge's determination, the court concludes that a continuance is necessary to allow defense counsel an adequate opportunity to prepare effectively for trial. In addition, the government does not oppose the continuance.

Accordingly, it is ORDERED as follows:

(1) Defendant Cedric Wright's motion to continue (doc. no. 46) is granted.

(2) The jury selection and trial, now set for March 13, 2019, are continued to April 8, 2019, at 10:00 a.m. in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 21st day of February, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE